

CHAPTER 6

Offenses by Juveniles

SEC. 11-6-1 CURFEW.

- (a) It shall be unlawful for any person under sixteen (16) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the City of Menasha between the hours of 10:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.
- (b) **EXCEPTIONS.**
 - (1) This Section shall not apply to a child:
 - a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
 - b. Who is on his own premises or in the areas immediately adjacent thereto.
 - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - d. Who is returning home from a supervised school, church or civic function.
 - (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- (c) It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under sixteen (16) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing persons notification to the police department shall not be considered to have allowed or permitted any person under sixteen (16) years of age to violate this Section.
- (d) It shall be unlawful for any person, firm or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under sixteen (16) years of age to loiter, loaf or idle in such place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this Section shall find persons under sixteen (16) years of age loitering, loafing or idling in such place of business, he shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform them of the violation.
- (e) Every law enforcement officer is hereby authorized to detain any minor violating the provisions of above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the

- Police shall take whatever action is deemed necessary in the best interest of the minor.
- (f) The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer of the City, as provided in Subsection (e), such minor, parent, guardian or person having such legal custody shall be advised, personally, if known or by registered mail, as to the provisions of this Section, and further advised that any violation of this Section occurring thereafter by this minor or any other minor under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
 - (g)
 - (1) Any parent, guardian or person having legal custody of a child described in Subsections (a) through (e) who has been warned in the manner provided in Subsection (f) and who thereafter violates any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Ordinance because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.
 - (2) Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the cost of prosecution.

SEC. 11-6-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161, of the Wisconsin Statutes.

SEC. 11-6-3 PETTY THEFT BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18), with intent, to steal or take property valued at Three Hundred Dollars (\$300.00) or less from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

SEC. 11-6-4 RECEIVING STOLEN GOODS.

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.

SEC. 11-6-5 POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES BY JUVENILES.

It shall be unlawful for any person under the Wisconsin legal drinking age to possess or consume intoxicating liquors or fermented malt beverages anywhere within the City except and unless accompanied by a parent or guardian.

Cross Reference: Section 11-5-7.

SEC. 11-6-6 POSSESSION, USE OR PURCHASE OF TOBACCO PRODUCTS BY CHILDREN.

(a) DEFINITIONS. In this section:

- (1) Cigarette has the meaning given in Sec. 139.30(1), Wis. Stats.
- (2) Distributor means a person specified under Sec. 139.30(3) or 139.75(4), Wis. Stats.
- (3) Identification card means a license containing the photograph issued under Chapter 343, Wis. Stats., an identification card issued under Sec. 343.50, Wis. Stats., an identification issued under Sec. 125.08, Wis. Stats., (1987).
- (4) Jobber has the meaning given in Sec. 139.30(6), Wis. Stats.
- (5) Law enforcement officer has the meaning given in Sec. 30.50(4), Wis. Stats.
- (6) Manufacturer means any person specified under Secs. 139.3(7) or 139.75(5), Wis. Stats.
- (7) Place of business means any place where cigarettes or tobacco products are sold, manufactured, or stored for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.
- (8) Retailer means any person licensed under Sec. 134.65(1), Wis. Stats.
- (10) Subjobber has the meaning given in Sec. 118.257(1)(c), Wis. Stats.
- (11) Tobacco products has the meaning given in Sec. 139.75(12), Wis. Stats.
- (12) Vending machine has the meaning given in Sec. 139.30(14), Wis. Stats.
- (13) Vending machine operator has the meaning given in Sec. 139.30(15), Wis. Stats.

(b) RESTRICTIONS.

- (1) Except as provided in sub. (c), no person under the age of 18 may buy or attempt to buy any cigarettes or tobacco products, falsely represent his or her age for the purpose of receiving any cigarette or tobacco product, or possess any cigarette or tobacco product.
- (2) Except as provided in sub. (c), no person under the age of eighteen (18) may possess any cigarette or tobacco product.
- (3) Except as provided in sub. (c), no retailer may sell or give cigarettes or tobacco products to any person under the age of 18.
 - a. A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.
 - b. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this ordinance or comparable state law.
 - c. No person may place a vending machine within 500 feet of a school.

- d. No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.
- (c) A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Sec. 134.65(1), Wis. Stats.
- (d) Proof of all the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. (b)(2) above:
 - (1) That the purchase falsely represented that he or she had attained the age of 18 and presented an identification card.
 - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.
 - (3) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.
- (e) A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of sub. (b) committed in his or her presence.
- (f) **PENALTY.**
 - (1) Any person under the age of eighteen (18) who shall violate the provisions of this section shall be subject to a forfeiture not to exceed Twenty-five (\$25.00) Dollars plus any and all court costs.
 - (2) Any person who receives a citation under this ordinance shall be offered the opportunity to have the citation dismissed upon attendance in a tobacco use education program. This opportunity will be available irrespective of the number of citations any individual receives.
 - (3) No citation may be issued for violation of Sec. 11-6-6(b)(2) unless personally observed by the issuing officer.

SEC. 11-6-7 CITY JURISDICTION OVER PERSONS 12 THROUGH 16 YEARS OF AGE.

- (a) **ADOPTION OF STATE STATUTE.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **PROVISIONS OF ORDINANCE APPLICABLE TO PERSONS 12 THROUGH 16 YEARS OF AGE.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against person 12 through 16 years of age may be brought on behalf of the City of Menasha and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (c) **NO INCARCERATION AS PENALTY.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (d) **ADDITIONAL PROHIBITED ACTS.** In addition to any other provision of the City of Menasha Code of Ordinances, no person age 12 through 20 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **PENALTY FOR VIOLATIONS OF SUBSECTION (d).** Any person 12 through 16 years of age who shall violate the provisions of Subsection (d) shall be subject to the same

penalties as are provided in Section 1-1-7 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 11-5-7.